APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,915	08/31/2001	Andreas Westendorf	10191/2007	3903

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EXAMINER
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ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/944,915	WESTENDORF ET AL.
	Examiner	Art Unit	
	MICHAEL PYZOCHA	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _09 May 2008_.

2a) ☒ This action is **FINAL.**   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _22-46 and 49_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _22-46 and 49_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 22-46 and 49 are pending.

2.   Amendment filed 05/09/2008 has been received and considered.

Claim Rejections - 35 USC § 103

3.   The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

4.   Claims 22-24, 26-28, 31-34, 36, and 39-45 are rejected under 35 U.S.C. 103(a)

as being unpatentable over Peinado et al. (US 7051005) in view of Serkowski (US

6513121).

        As per claims 22, 23, 41-45, and 47 Peinado et al. discloses transmitting first

data to a first processor from one of a data medium drive and a third processor (see

column 2 lines 41-56); transmitting second data to a second processor, the second data

being based on the first data; checking the second data in the second processor to

determine if the first data may be processed in the first processor (see column 3 lines

10-43); transmitting a positive check result to the first processor (see column 3 lines 31-

43); and responsive to receiving the positive check result, processing the first data at

the first processor (see column 3 lines 44-54).

        Peinado et al. discloses sending a positive check result as described above, but

fails to explicitly disclose sending a check result additionally when it is negative.

        However, Serkowski teaches sending a check result when it is negative (see

column 2 lines 3-30).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to send both positive and negative check results in the Peinado et al. system.

Motivation as recognized by one of ordinary skill in the art to do so would have been to notify the requestor that the request has been denied.

As per claim 24, the modified Peinado et al. and Serkowski system discloses the limitations substantially similar to those of claim 22 and further discloses, wherein the step of transmitting the first data include transmitting the first data to the first processor from a data medium drive, and wherein the method further comprises: checking in the second processor an identity of a data carrier in the data medium drive (see Peinado et al. column 3 lines 31-43).

As per claim 26, the modified Peinado et al. and Serkowski system discloses checking an error-free transmission in at least one of the first processor and the second processor (see Peinado et al. column 2 line 66 through column 3 line 5).

As per claims 27 and 28, the modified Peinado et al. and Serkowski system discloses the data is transmitted in encoded form (see Peinado et al. column 2 line 66 through column 3 line 5).

As per claims 31, 33-34 and 36, the modified Peinado et al. and Serkowski system discloses accessing a database and allowing and storing data (see Peinado et al. column 3 lines 31-43).

As per claim 32, the modified Peinado et al. and Serkowski system discloses, initiating by the second processor a payment process as a function of the second data (see Peinado et al. column 20 lines 51-60).

As per claims 39 and 40, the modified Peinado et al. and Serkowski system discloses determining a first check code is determined from the first data; and forming the second data at least in part from the first check code (see Peinado et al. column 2 line 66 through column 3 line 43).

5.   Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Peinado et al. and Serkowski system as applied to claim 22 above, in view of Okada (US 6704872).

As per claim 25, the modified Peinado et al. and Serkowski system discloses transmitting the first data to the first processor from a third processor (see column 2 lines 45-60 and figure 1), but fails to disclose including an identity of the processor with the authentication information.

However, Okada teaches including such information (see Abstract).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to including the identity of the processor with the information of the modified Peinado et al. and Serkowski system.

Motivation to do so would have been to restrict the use of a specific software program to a single processor (see Okada abstract).

6.   Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Peinado et al. and Serkowski system.

As per claims 29 and 30, the modified Peinado et al. and Serkowski system fails to disclose the use of wireless connections.

However, Official Notice is taken that at the time of the invention it would have been obvious to one of ordinary skill in the art to use wireless connections.

Motivation to do so would have been to allow for mobility.

7.   Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Peinado et al. and Serkowski system as applied to claim 22 above, in view of Gurr (US 4264960).

As per claim 35, Peinado et al. fails to disclose starting a check of the first data in the first processor; and restarting the check in the first processor if the check has not been run through completely.

However, Gurr et al teaches such a check (see column 16 line 52 through column 17 line 3).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the checking system of Gurr in the modified Peinado et al. and Serkowski system.

Motivation to do so would have been to check a message for errors (see Gurr column 16 line 52 through column 17 line 3).

8.   Claims 37 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Peinado et al. and Serkowski system as applied to claim 22 above, in view of Coley et al. (US 5790664).

As per claim 37, the modified Peinado et al. and Serkowski system fails to disclose deleting data if there is no license.

However, Coley et al. teaches such a practice (see column 14 lines 57-67).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to delete the content of the modified Peinado et al. and Serkowski system if there is no license.

Motivation to do so would have been to protect the data from unauthorized use (see Coley et al. column 14 lines 57-67).

As per claim 46, the modified Peinado et al., Serkowski and Coley et al. system discloses the checking is executed at specifiable time intervals (see column 8 lines 54-69 and column 9 lines 1-22 and 42-51).

9.   Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Peinado et al. and Serkowski system as applied to claim 22 above, in view of Flick (US 6140939).

As per claim 38, the modified Peinado et al. and Serkowski system fails to disclose delivering a warning if the first data is not released.

However, Flick teaches such a warning (see column 3 lines 7-23).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the warning of Flick in the system of the modified Peinado et al. and Serkowski system.

Motivation to do so would have been to allow for updating of samples (see column 3 lines 7-23).

10.   Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over the

modified Peinado et al. and Serkowski system as applied to claim 22 above, and further

in view of Ishiguro et al. (US 7237112).

        As per claim 49, the modified Peinado et al. and Serkowski system fails to

explicitly disclose deleting the first data in response to a negative check result.

        However, Ishiguro et al. teaches deleting when a result is negative (see column

44 lines 14-30).

        At the time of the invention it would have been obvious to a person of ordinary

skill in the art to delete the content of the modified Peinado et al. and Serkowski system

when the check result is negative.

        Motivation to do so would have been to conform with usage restrictions (see

Ishiguro et. al column 44 lines 14-34).

Response to Arguments

11.   Applicant's arguments filed 05/09/2008 have been fully considered but they are

not persuasive. Applicant argues that there is no motivation to combine Serkowski with

Peinado; Peinado fails to send a negative check result; Serkowski teaches away from a

combination; and the remaining references fail to cure the stated deficiencies.

        As per Applicant's argument that there is no motivation to combine Serkowski

with Peinado the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the

references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, one of ordinary skill in the art recognizes that sending a negative result allows the system and user to be aware of the failure and use that information. Therefore, there is motivation to combine Serkowski with Peinado.

As per Applicant's argument that Peinado fails to send a negative check result, the Examiner admits this and relies upon Serkowski to teach this limitation.

As per Applicant's argument that Serkowski teaches away from a combination, Peinado teaches sending a positive check result but does not teach any type of negative result; while Serkowski teaches sending a check result, both positive and negative, between applications. Therefore, one of ordinary skill in the art would recognize the teaching of sending results between applications can be used between the processors of Peinado to produce predictable results. Therefore, Serkowski does not teach away from a combination.

Applicant's argument that the remaining references fail to cure the deficiencies of Peinado and Serkowski is moot in view of the above response.

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Conclusion

12.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to MICHAEL PYZOCHA whose telephone number is

(571)272-3875. The examiner can normally be reached on Monday-Thursday, 7:00am -

4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJP

/Nasser G Moazzami/
Supervisory Patent Examiner, Art Unit 2136